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REPORTS

NOTES OF THE WEEK

Magistrates' Courts Act, 1957—a Point of Procedure

We understand that it is the practice in at least one police force for a form of receipt to be delivered to the defendant when a summons is served (and it is intended to adopt the new procedure) on which the defendant can acknowledge to the police the due receipt of the summons. We do not know how general this practice is, and it may be that it is found that such receipts, as opposed to an acknowledgment sent by the defendant to the court, serve a useful purpose. We should have thought that it might confuse the defendant to have to send such a receipt to the police and a statement in mitigation to the court and we have been told that some defendants have written their statement in mitigation on this form of receipt. In cases of postal service, or of service by leaving the summons at the defendant's place of abode, a receipt does serve a useful purpose as showing that the summons appears to have come to the defendant's knowledge, but the better practice would seem to be for the receipt to be sent to the clerk of the court rather than to the police. It may be, however, that there is some advantage in its going to the police and if so we should be grateful if one of our readers could inform us on this point. The Act of 1957 has only recently begun to operate, and all those concerned with it will wish to adopt the most convenient procedure to make it work satisfactorily.

Resisting Apprehension

The Yorkshire Post recently reported a prosecution which failed because of what was described as a technicality which led the Crown to accept the defendant's plea of not guilty and to proceed no further with the case.

The defendant was charged before Streatfeild, J., presumably under s. 18 of the Offences Against the Person Act, 1861, with using a shotgun with intent to resist his apprehension by two police officers. It was stated that the gun, not a very effective weapon, had a cork in one barrel, and it failed to fire.

It transpired that the police were attempting to arrest the defendant for an alleged cycling offence of a minor nature for which the police had no power to arrest.

If the defendant was trying to prevent his apprehension for an offence in respect of which there was no right of arrest he was not resisting his lawful, but his unlawful, apprehension, and that was not an offence within the terms of the section. A man is not bound to submit to unlawful apprehension.

This may be described as technical, but it is a point of real substance and a perfectly proper point to be taken. As has been said over and over again, a sound legal defence is the best of all defences.

The Drafting of Informations and Summonses

A correspondent has written to ask, in effect, who is responsible for the preparation of summonses issued by justices. We think that the writing or typing of the summonses must be a duty for which the justices' clerk is responsible, but the vital document is the information, and that is the responsibility of the informant. The form of the information is of the utmost importance. Lord Goddard, C.J., said in *Cording* v. *Halse* [1954] 2 All E.R. 287 at p. 291, in commenting on the form of the information in that case, " but it is not the way to draft informations because, if the case goes to appeal, the information has to be carefully reproduced in the conviction so that it discloses an offence on the face of it."

The first essential is, therefore, that the information should be correctly drafted by the informant. The summons should follow the form of the information. This does not mean that a summons should be issued in a form which, in the view of the clerk to the justices, does not correctly set out the offence charged unless the informant, having had his attention drawn to the clerk's view, states that he disagrees with that view and is prepared, when the case is heard, to argue to justify the form of his information as laid. Ordinarily, we imagine, no difficulty should arise. Any omission from, or defect in, the form of the information can be

pointed out before the summons is issued and the informant can make, at that stage, any necessary correction. The information is then laid in the form in which the summons will be issued.

We feel that we should add, however, that when the case comes to be heard the parties will be the informant and the defendant. Any argument there may be as to the validity of the information will be between them, with the court having to give its decision after hearing their arguments. It is important, therefore, that if any point of substance is involved in the wording of the information the clerk to the justices should not be committed in advance to a particular point of view but should be free to advise the justices on the relevant law after they have heard the arguments of both sides at the trial.

Indorsement

Words tend to become less precise in their meaning and application as the result of everyday use. This was illustrated in the case of *R.* v. *Metropolitan Police Commissioner, ex parte Melia* [1957] 3 All E.R. 440 which was a successful application for *habeas corpus* on the ground that a warrant of arrest issued by an Irish court had not been properly indorsed by an English court as required by s. 12 of the Indictable Offences Act, 1848, as amended.

The section authorizes the magistrate to "make an indorsement on the warrant." What was done was to pin a form containing the words of the usual indorsement to the warrant, in accordance with what we believe to be a fairly common practice. That practice will have to be discontinued. The Lord Chief Justice, delivering the judgment of the Divisional Court granting the writ, said the warrant had not been indorsed, as required by the section. Pinning a form to a document was not an indorsement on the back of the document as required.

If one thinks of the literal meaning of the word "indorse" one is reminded that originally it must have been used as referring to the back of a document, such as a cheque for example. Attaching a form is not a strict compliance with a requirement to make an indorsement on the document.

Prisoner to the Rescue

Readers who were interested in the case of the prisoner who rescued the two police officers who had him in custody when the police car overturned (*see* p. 721, *ante*), may like to know what happened to him at Dudley quarter sessions, to which he had been committed for sentence. Thanks to a correspondent we have the report in the *Dudley Herald*, with certain other particulars.

The prisoner asked to have three other offences taken into consideration, and the learned recorder said that he might have expected a sentence of at least five years in view of his terrible record which included 73 offences and various terms of imprisonment. The justices were quite justified in sending him to quarter sessions for sentence. However, in view of his behaviour in not attempting to escape but instead helping the police officers and calling the ambulance and other police, he would be placed on probation for three years. This would be his chance, and he should take advantage of it. The prisoner was described as a gipsy and was said to be living in a caravan going from place to place, and a condition of the probation order was that he should report to the police and the probation officer of each district into which he moved.

Road Safety in the West Riding

Education of the public into habits which will promote road safety is probably the most profitable cause to pursue in our efforts, as a nation, to reduce the losses of all kinds which road accidents cause. Various authorities try to help in this, and we have noted in the past bulletins issued by police forces. The October, 1957, issue of *Road Safety Notes* by the West Riding Constabulary has just come to our notice, and if the public in that part of the country have the opportunity, and take it, to read this booklet, they will profit by doing so.

An article on driving tests points out that it is unwise for a beginner to seek to take a driving test the moment that he feels he has acquired the necessary minimum of knowledge. He will be far more likely to succeed at his first attempt if he gives himself the chance to gain experience and a measure of sound confidence. Moreover, it must be remembered that his "learning" does not end with passing the test, and this is a fact which should be impressed upon all new drivers.

There are brief accounts of 15 fatal accidents in the county during August, 1957, accompanied by the remains of a motor car concerned in one of them which looks almost as though it might have been run over by a steam roller. Also included are some interesting extracts from summaries of notes published by the Road Research Laboratory on investigations into the effects on accidents, of the provision of dual carriageways, roundabouts, staggered crossroads and improved street lighting. If people will read publications of this kind their attention must be drawn to the problem of road safety and it is highly likely that they will come to realise that everyone must play his part in preventing accidents. If they realize this there is a reasonable chance that they will act accordingly, and we might then see a real improvement in the position.

Disqualification as a Punishment

Mr. Justice Diplock had recently to sentence a 58 year old doctor who was found guilty of causing death by dangerous driving. It was said on the doctor's behalf that he had been driving for 36 years and had never been involved in any accident or collision. The learned Judge fined him £250, saying that as it was the first time in many years of driving that he had committed that kind of offence he would not send him to prison, but he added that he would be disqualified for five years and told him "in case you shall seek to get the suspension lifted I want to make it quite clear that I have made that period as part of the punishment instead of sending you to prison."

The case is reported in *The Yorkshire Post* of November 9. The man who was killed was a passenger in a car which was being driven in the opposite direction to that in which the doctor was proceeding. According to the driver of a car which was overtaken by the doctor the overtaking was at a speed of about 75 miles per hour, in the outside of three traffic lanes. Another car was overtaken similarly and the collision occurred when the doctor was trying to overtake a third car. The driver of the car with which he collided said that he never left his nearside lane of traffic and that he saw the doctor's car approaching and could do nothing but wait for the collision. There seems to have been little dispute that the doctor's car was travelling at a high speed because he said in evidence that he had slowed down to about 50 miles per hour.

We note this case because of the deliberate use by the learned Judge of a lengthy period of disqualification as part of the punishment instead of the infliction of a prison sentence.

The Sleep of the Just

Those of our readers who take notice of advertisements will be aware that there are various "cures," if the advertisements are to be believed, which can be taken by those who find it difficult to get satisfactory sleep. A United States serviceman referred to in a report in the *East Anglian Daily Times* of November 15 would appear to be in no need of any such cure. It was said that he was a passenger in a car which hit a tree and turned over on its side, but he still slept on and had to be awakened. He was quite unaware that any accident had happened. The driver of the car, another United States serviceman, said that he must have fallen asleep at the wheel. It was said on his behalf that he had worked on communication duties from midnight to 8 *a.m.* on three consecutive nights and it was also suggested that exhaust fumes from the car, a 1934 eight horse-power model, might have affected them both. The driver was fined £10 for driving without due care and attention. He and his passenger seem both to have been very fortunate as there is no suggestion in the report that either of them was injured.

Matrimonial Proceedings (Magistrates' Courts) Bill

This Bill, introduced in the House of Lords by the Lord Chancellor, received its second reading on November 19. Its purpose is "to consolidate the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949, and related enactments, with corrections and improvements made under the Consolidation of Enactments (Procedure) Act, 1949." It is intended that it shall come into force on April 1, 1958 (cl. 19).

The amendments are of course of a minor nature, and if it is thought desirable that more substantial amendments in the law should be made a further amending Act will be necessary. One minor amendment is in the wording of s. 5 of the Summary Jurisdiction (Married Women) Act, 1895, which empowers a magistrates' court to make "an order or orders." These words have given rise to some discussion as to whether, for example, the maintenance provision and the provision about the custody of children of the marriage are to be treated as separate orders or the sum total of all the provisions to be treated as a single order. The new Bill authorizes the court to make "an order," thus making it plain that the several provisions constitute a single order.

Attachment of Income for Maintenance

This is a Bill to be welcomed and we hope will become law. As we understand it, only defaulters will be affected by it. Men who pay fairly regularly are not at all likely to be subject to attachment of any part of their salaries or wages, and consequently their employers will not be troubled. Persistent defaulters are the ones aimed at and attachment would no doubt be the means of securing payment of maintenance by some of these to the great benefit of their wives and, we believe, with little trouble to employers.

Waterside Alleys

Our Notes at pp. 606 and 687, *ante*, about the placing of doors in a highway at Westminster without due legal process, have led a reader to call our attention to cases where alley-ways leading to the sea or navigable rivers have been similarly blocked. The reason has usually been that there was danger to children who would be tempted to play about the waterside, and probably some misuse for other purposes. Such alleys have no doubt sometimes provided a way of escape for thieves, and it is likely enough that the police will have acquiesced in seeing them blocked. Typically such an alley ends in steps leading to the water and has probably become a public highway, but often its legitimate use has been almost wholly confined to lightermen and other regular users of the water. Our correspondent tells us that in cases known to him the local authorities have recognized that the watermen had rights, and arranged for keys to be available at neighbouring premises. He states that when proposals have been made to develop property by way of building across such alley-ways, the local authorities have objected on the ground of public rights, although they themselves have prevented the exercise of public rights. We believe that a few local authorities have obtained power by local Acts of Parliament to put doors across such alley-ways, preserving the rights of watermen by making some arrangement such as our correspondent mentions for keys to be available. It is likely enough that in other places the same thing has been done without statutory power.

If it is desired, as in the cases mentioned by our correspondent, to redevelop property along the waterside in such a way as to close one of these alley-ways which is a highway, proper machinery is available in s. 49 of the Town and Country Planning Act, 1947. Where development is not intended the local authority should go to quarter sessions under the Highway Act, 1835, if it can be established that the highway is no longer needed. In most cases, however, this would be impossible to prove, seeing that those members of the public who use the water for their lawful purposes will still need access to it. Where this is so, the way should be left open, and local authorities and the police should make the best of the incidental troubles which have led in some cases to illegal closing.

Enforcing a Byelaw

We referred at p. 638, *ante*, to the prosecution of a club proprietress, under a byelaw with respect to noise. We are indebted to the clerk of the county council for informing us that the defendant appealed to quarter sessions against the decision of the magistrates' court, and that the appeal was unsuccessful. The court was satisfied upon the facts that there had been an offence against the county council's byelaw, and agreed with the magistrates' court, and the opinion we have ourselves expressed, that the police are competent to prosecute the contravention of a byelaw made under s. 249 of the Local Government Act, 1933. This point of law seems to us so clear that we confess ourselves surprised at its being taken by counsel before quarter sessions, whatever might be thought about its being tried in the magistrates' court.

This is not to say that we think it is good practice for the police to lay information for breach of such a byelaw. There are some byelaws which cannot in practice be enforced at all, except by the police. We are thinking of those which forbid the throwing down of litter or depositing of human or canine excrement in streets. Unless the culprit is detected at the moment of offending, he cannot be detected at all, and refusal by police authorities (supported by the Home Office) to concern themselves with these byelaws is one of the reasons why they are a dead letter. The case is otherwise, where a byelaw relates to something done on premises by the occupier. Here there can be no doubt who is to be made defendant, and it seems to us that the local authority who made the byelaw are the proper people to enforce it.

RE-COMMITTALS TO QUARTER SESSIONS

By LAURANCE H. CROSSLEY, *Clerk to the Justices, Uxbridge*

What appears to be a procedural gap in the law, which affects both courts of quarter sessions and magistrates' courts, has recently made itself evident.

Assume that a youth of 17 is convicted by the magistrates of an offence punishable with imprisonment and committed in custody to quarter sessions under s. 28 of the Magistrates' Courts Act for sentence under s. 20, Criminal Justice Act, 1948, with the recommendation that he be sentenced to borstal training. He duly appears before the appeal committee of quarter sessions and is remanded on bail to a subsequent sitting of the committee. At this subsequent sitting the youth does not surrender to his bail and a bench warrant is issued for his arrest. He is later arrested at a time when neither quarter sessions nor the appeal committee is sitting. The problem then emerges as to how and by what authority he can be detained until the next sitting of quarter sessions or the appeal committee.

The large proportion of persons failing to surrender to bail at quarter sessions are those who have been committed for trial and thus do not appear to plead to the indictment against them. In these cases the procedure is laid down in s. 12, Magistrates' Courts Act, 1952: the proper officer of quarter sessions grants a certificate of the signing of the indictment, a magistrate must issue a warrant on production of the certificate, the defendant is arrested, brought before a magistrate and, on proof that he is the person referred to in the indictment he is re-committed for trial.

This procedure only becomes operative in cases where an indictment has been signed and it is necessary to consider the position where an accused person has been bailed by quarter sessions following a committal for sentence. In these cases he is committed as a convicted person and accordingly no indictment is signed against him.

Committals for sentence can be made under s. 28 of the Magistrates' Courts Act, 1952, when the magistrates recommend borstal training, or under s. 29 of that Act because the magistrates consider, owing to the defendant's character and antecedents, that their maximum powers of punishment are inadequate. In this latter case quarter sessions or its appeal committee inquire into the circumstances of the case and have power to deal with the accused person " in any manner in which he could be dealt with by a court of quarter sessions before which he had just been convicted of the offence on indictment " (s. 29 (3) (*a*) of the Criminal Justice Act, 1948).

From this it can be argued that once the defendant has appeared before quarter sessions matters proceed thereafter as if an indictment against him had been signed and that this presumption will extend to authorizing a magistrates' court to re-commit him under s. 12 of the Magistrates' Courts Act, 1952. On the other hand it can be submitted that s. 29 (3) (*a*) of the Criminal Justice Act, 1948, merely defines the punitive powers of quarter sessions and is not a procedural section and that s. 12 of the Magistrates' Courts Act, 1952, does not apply because the accused person has not in fact failed to appear " to plead to an indictment against him."

As far as committals for sentence under the borstal section are concerned there seems to be no argument in favour of a magistrates' court being able to re-commit to quarter sessions. The powers of quarter sessions are either to sentence to borstal training or to deal with the offender " in any manner in which the court of summary jurisdiction might have dealt with him." There is accordingly no indictment signed against him and no presumption of one having been signed, so clearly a magistrates' court cannot re-commit under s. 12 of the Magistrates' Courts Act, 1952.

Section 12 (3), Magistrates' Courts Act, 1952, authorizes a magistrates' court, on proof that the prisoner is the person named in the indictment, to " commit him for trial." The other provisions of the Act relating to committals for trial will accordingly apply and these include granting bail. Committals for sentence under both ss. 28 and 29, Magistrates' Courts Act, 1952, must be in custody, which provides a further argument that s. 12, *supra*, does not apply to re-committals for sentence.

A re-committal in custody deprives a man of his liberty and is a serious step which must only be taken with proper legal justification. Magistrates' courts have no inherent powers and can only act in a matter of this sort with proper authority. It is contended that there is a complete absence of authority to re-commit a person committed for sentence under s. 28, Magistrates' Courts Act, 1952, and only a somewhat inconclusive argument as an authority for re-committing a person originally committed under s. 29 of that Act.

It is accordingly submitted that s. 12 of the Magistrates' Courts Act, 1952, applies only to cases where there has been a committal for trial where an indictment has been signed at quarter sessions, and not to cases committed for sentence when no indictment is signed.

Cases where quarter sessions or its appeal committee remand on bail a person appearing before them for sentence may well be infrequent but there is clearly legal authority for doing so and such cases must occur from time to time. The correct procedure to be followed subsequent to a failure to surrender to bail after such a remand is accordingly of considerable practical importance both to courts of quarter sessions and magistrates' courts.

If, as is suggested, magistrates' courts have no power to re-commit a person committed for sentence, quarter sessions are faced with considerable practical difficulties in having the defendant brought before them. If they are in session when the man is arrested he can be brought before them forthwith but if they are not in session the police officer arresting him cannot bring him before quarter sessions or a magistrates' court and the warrant is no authority for detaining him until the next sitting of quarter sessions.

The magistrates must, as always, tread with caution. If they in fact re-committed a man originally committed for sentence and it is held that they had no power to do so they would be acting without jurisdiction and would consequently have no answer to an action for damages for false imprisonment.

The matter can only be made completely free from doubt by a suitable amendment of s. 12 of the Magistrates' Courts Act, 1952, so that magistrates' courts have authority to re-commit for sentence. Unless and until this is done, courts of quarter sessions should appreciate that if a man committed for sentence is remanded on bail, in practice his future attendance may not be enforceable and magistrates' courts should accept it that there is no authority for them to re-commit for sentence.

CRIMINAL OFFENCES IN RELATION TO HIRE PURCHASE

By A. W. ORMEROD, M.A., LL.B. (Cantab.), *Solicitor*

Prosecutions for offences under the Control of Hiring Orders are by no means uncommon these days and it is worth considering the other offences which may be committed by a hire purchase trader.

Owner's Duty to Give Information

Under the Hire Purchase Act, 1938, s. 6, at any time before the final payment has been made, any person entitled to enforce a hire purchase or credit sale agreement, which falls within the scope of the statute, against the hirer or buyer is under a duty to supply the latter with a copy of the agreement and certain information, upon receipt of a written request and the tender of 1*s*. The information, which concerns the amount of payments made and arrears of instalments, must be supplied within four days, and in the event of failure to comply without reasonable cause the agreement is virtually unenforceable. But if the default continues for a period of one month, the defaulter is liable upon summary conviction to a fine not exceeding £10.

Advertisements

The Advertisements (Hire Purchase) Act, which is due to come into force on January 1, 1958, is a detailed Act, the effect of which is to require that advertisements relating to goods offered for disposal by way of hire purchase or credit sale which state the amount or proportion of any deposit, or the amount of any instalment, or that no deposit is payable, must also contain certain further details. Section 2 specifies these details, which must be given equal prominence. They are the deposit, or a statement that the deposit is a proportion of a sum specified in the advertisement, or a statement that no deposit is payable, and the amount of each instalment, the period over which each is payable, the number payable and the number to be paid before delivery of the goods is possible, if any. But, if the advertisement does not contain figures as to the price, *i.e.*, if it does not specify the deposit payable, nor the amount of any instalment, nor any sum as being the price of the goods, it is sufficient to state that either the deposit is a specified proportion of the cash, hire purchase, or total price of the goods, or that no deposit is payable; and the total number of instalments payable, the period over which each is payable and the number which must be paid before delivery. If the advertisement sets out two or more alternative schemes, the details of each must be distinguished clearly.

In s. 4 of the Act there are elaborate definitions, which also indicate the scope of the statute. It applies to all kinds of goods and there are no financial limits. "Advertisement" includes not only the everyday newspaper paragraph and the cinema or television panel, but also catalogues, price lists, etc., whether or not spoken words accompany. But although the words may form part of the advertisement in order to decide whether or not figures as to the price are given, they cannot be used as a means of giving the information required by the statute. "Credit sale" is not given the same meaning as the corresponding phrases in the Hire Purchase Acts; it means the sale of goods in pursuance of an agreement under which the whole or part of the purchase price is payable in instalments; the definition of hire purchase is almost the same, however.

The offence of displaying or issuing, or causing the display or issue of, an advertisement contravening the requirements is punishable on summary conviction by a fine of £50 on first conviction or £100 on any other conviction. Proceedings may be taken against a person at any place where he is for the time being, and there is the usual clause making liable the directors, managers and other similar officers of bodies corporate, including nationalized undertakings, found guilty of the offence.

One defence is provided—the defendant must show that the offending material was not devised or selected by him or any person under his control and that it did not relate to anything to be done in the course of a business carried on by him.

Fireguards

Another statute which makes specific reference to hire-purchase is the Heating Appliances (Fireguards) Act, 1952. This applies to the sale in the course of business of certain heating appliances unless they are fitted with guards as required by the regulations (S.I. 1953 No. 526) made under the Act. But not only does the Act refer to sale, it includes also letting under a hire purchase agreement or offering therefor. Local authorities may authorize inspection, and institute proceedings, but there is an exception which protects from liability owners of an appliance who were at no time in possession of the appliance and only became entitled as owner at the time of entering into the agreement. Similarly s. 42 (5) of the Road Traffic Act, 1956, prohibits the sale or hire of crash helmets which do not comply with the Ministry of Transport Regulations.

Forcible Entry

An owner who retakes possession of goods on another person's premises, whether a third party or the hirer, will commit an offence under the Statute of Forcible Entry, if he uses more force than is reasonably necessary. This is so even though he may have a licence to enter the land.

Larceny by the Owner or Hirer

There is nothing to prevent an owner being convicted of stealing his own goods if let under a hire purchase agreement. What must be shown is that the goods were in possession of the hirer and that the intention of the accused was either fraudulently to charge the hirer with loss of the goods, or, in cases where the hirer has a right to possession as against the owner, to deprive him permanently of his special property in the goods (*R.* v. *Wadsworth* (1867) 10 Cox C.C. 557). Conversely, a hirer may be convicted of stealing goods, even though he has lawful possession, if he fraudulently converts them to his own use or to the use of any person other than the owner. Such an act is analogous to larceny; a definite time when conversion took place must be shown.

By reason of the definition of 'owner" in the Larceny Act, 1916, s. 1 (2) (iii) the goods may properly be described as the property of the hirer in any indictment against a third party.

Obtaining Goods by False Pretences

As it is an essential ingredient of this offence that the accused intended permanently to deprive the owner of his

property in the chattel, it is not an offence merely to obtain the use of the chattel under a hire purchase agreement.

An undischarged bankrupt is in a doubtful position as regards s. 155 (*a*) of the Bankruptcy Act, 1914, which makes it a misdemeanour for an undischarged bankrupt to obtain credit to the extent of £10 or upwards without revealing his disability. As the hiring is always determinable, it can hardly be said that he has obtained credit But if he allows the arrears to mount up to £10 or over, his position may be different.

Restitution

It is to be noted that conviction of the felon will revest stolen goods in the owner notwithstanding sale in market overt or otherwise.

THE LOCAL GOVERNMENT BILL

PART II—REVIEWS OF LOCAL GOVERNMENT AREAS IN ENGLAND AND WALES

Part II of the Bill provides machinery for comprehensive reviews of local authority areas to secure an effective and convenient organization of local government.

Clause 17 (1) of the Bill sets up two Local Government Commissions, one for England and one for Wales, charged with the duty of reviewing the organization of local government in their respective areas (exclusive of the metropolitan area) and of making proposals for effecting changes desirable in the interests of effective and convenient local government.

The Commissioners have to apply themselves to two categories of area: (*a*) "Special review areas" and (*b*) the remainder of England and Wales. The special review areas are defined in sch. 1 to the Bill as Tyneside, West Yorkshire, S.E. Lancashire, Merseyside and W. Midlands area. The constitution of the Commissions is provided for in sch. 4 to the Bill. Each shall consist of a chairman, a deputy chairman and not more than five other members, who shall be paid such fees, salaries and allowances as may be from time to time determined by the Treasury.

The "Metropolitan area," which is not within the purview of the Commissioners' activities, is defined in sch. 5 to the Bill. It comprises not only the administrative counties of London and Middlesex, but certain parts of the counties of Surrey, Kent, Hertford and Essex.

By cl. 18 of the Bill the Commission may put forward changes concerning areas based upon any of the following means:

(*a*) The alteration of a county or county borough.

(*b*) The making of a new county by amalgamation or separation.

(*c*) The construction of a new county borough.

(*d*) The abolition of a county borough.

(*e*) The conversion of a county borough into a non-county borough or its inclusion in an administrative county.

Clause 19 provides for the scope of proposals for "special review areas" (*supra*). This includes, for example, the alteration of the area of a county district and the constitution of a new non-county borough by the amalgamation of a non-county borough with one or more other county districts.

It also includes (*inter alia*) abolition or conversions of county districts. Clause 20 makes special arrangements for distribution of functions in relation to "special review areas."

Where it appears to the Commission that the organization for local government of this type of area should take the form of a "continuous county" but that there should be a re-distribution of functions as between the county council and county districts in the county the Commission may put forward proposals for:

(*a*) the exercise of county functions by county district councils, and

(*b*) The exercise of district functions by the county council for the whole of part of the county.

"Continuous county" is defined as a county within which there are no county boroughs or "county functions" and "district functions" are also defined in subcl. (2) of the clause.

The procedure for the Commissions' reviews is elaborated in cl. 21 of the Bill.

By subcl. (1) in determining the order in which reviews are to be carried out of special review areas the Commission must comply with any directions of the Minister.

By subcl. (2) outside special review areas: (*a*) The Minister may direct the Commissioners to hold separate reviews for specified areas. (*b*) Subject to the Minister's direction the Commission may hold reviews separately within their discretion. (*c*) In holding separate reviews the Commission must comply with Ministerial directions as to the order of reviews.

Under subcl. (3), in carrying out a review the Commission must (*a*) investigate the circumstances of local government in the area (*b*) consult with all such local and public authorities and other bodies of persons as appear to the Commission to be concerned, (*c*) prepare draft proposals and furnish copies to those authorities and bodies, (*d*) specify a time within which any representations with respect to the joint proposals may be made.

By subcl. (4) the Commission are under a mandatory duty to consider any representations made in accordance with subcl. (3) (*supra*) and to confer with representatives of the authorities or bodies described. They must then formulate their proposals.

Clause 22 contains requirements about the Commissions' reports which they must forward to the Minister with their proposals. If the Minister so directs the report of the Commission must include their observations on anything specified in the direction whether or not they make proposals with regard to it (subcl. (2)).

By subcl. (3) of cl. 22, with regard to reviews of areas outside "special review areas":

(*a*) The Minister may direct the Commission to submit a separate report on any matter which they are reporting to him whether or not they make any proposals about it.

(*b*) Subject to (*a*) (*supra*) it is within the discretion of the Commission to determine whether they report to the Minister about the review in one or several reports.

By subcl. (4) the Commission must comply with any directions of the Minister about the forms in which their proposals and report on any review are to be submitted to him.

Clause 23 details the power of the Minister to give effect to proposals. By subcl. (2) of cl. 23 the Minister before making an order under the clause is bound to take the following action:

(*a*) See that copies of the proposals, together with the report submitted to him by the Commission are furnished to all local and public authorities appearing to him to be concerned.

(*b*) That public notice of the proposals is given.

(*c*) That facilities are provided for enabling members of the public to inspect the proposals and report.

(*d*) That a time is fixed within which representations may be made with respect to the proposals and report by any local or public authority or members of the public.

By subcl. (3) if within the time limit fixed any objection is made by any local authority and is not withdrawn the Minister must cause a local inquiry to be held unless he is satisfied that in order to consider the Commission's proposals he is sufficiently informed as to the matters concerned with the objection. Under subcl. (4) the Minister may by order give effect to the Commission's proposals with or without modification and any such order must be laid before Parliament, together with the report of the Commission. Subclause (5) deals with the Minister's duties in connexion with proposals for change under cl. 18 (*b*) to (*e*) (*supra*). Subclause (6) enables the Minister to modify proposals and cause the conversion of a non-county borough or urban district into a county borough and the extension of a county borough in any case where the application for the alteration was made to the Commission by the borough or urban district council notwithstanding that the Commission have not acceded to the application.

Clause 24 establishes the power of the Minister to initiate changes in default of proposals of the Commission. If after considering the report and proposals of the Commission the Minister thinks either (*a*) that their proposals are not apt for the improvement of local government in the area concerned or (*b*) that any particular provision is desirable for that purpose, then he may make proposals for the provision with that end in view. Under subcl. (2) the Minister must give public notice of his proposals and consider any representations. He must also have a local inquiry held. Clause 25 (1) empowers the Minister by order to vary the area of a special review after the review has been started, but before the Commission have formulated their proposals. Subclause (2) makes special arrangements for areas adjoining the special review areas.

Clauses 26 and 27 of the Bill provide for the establishment of joint boards "for the efficient discharge of any county or district functions" in a special review area. Schedule 6 to the Bill contains a comprehensive code about the constitutional matters connected with the establishment of joint boards and sets out their powers, procedure and other connected matters.

Clause 28 places upon county councils the duty of reviewing "the circumstances of the county districts within the county and to make such proposals as are hereinafter authorized for effecting changes appearing to the county council desirable in the interests of effective and convenient local government." By subcl. (2) this duty must be carried out by the council so soon as it appears to them or they are notified by the Minister, that the proceedings under the Commission have been taken to the point at which it is practicable for the council to proceed. The means of effecting alterations may, besides the methods elaborated in cl. 19 (*supra*), extend to the inclusion of a non-county borough in a rural district and the reconstruction or abolition of parishes (*vide* subcl. 4 (*a*) (*b*) (*c*) (*d*) (*e*) (*f*)). The county council have no power to propose changes in accordance with cl. 19 (*a*) to (*e*) (*supra*) as respects any part of the county comprized in a "special review area." Schedule 7 to the Bill provides a comprehensive code in relation to boroughs included in rural districts. Paragraph 3 of this schedule effects a change in the corporate name of a borough in a rural district by leaving out the word aldermen from the time-honoured formula of "mayor, aldermen and corporation." Provisions are also included about the status and composition of the council and the mayor and deputy mayor and the number and election of councillors. It is also expressly provided (para. 14) that the inclusion of a borough in a rural district shall not affect the provisions of its charter with certain limited exceptions. Clause 28 (1) does not apply to the administrative county of London or to the Metropolitan area except where Order in Council otherwise provides.

Clause 29 sets out the procedure for county reviews. Subclause (1) provides that the county council shall consult with the county district councils and confer with the representatives of those councils. By subcl. (2) forthwith after the review is completed the county council shall submit to the Minister a report on the review together with the proposals as to the changes which they consider desirable. They must also send copies of the proposals to the county district councils concerned and publish in one or more of the local newspapers a notice stating that the proposals have been made and that a copy is available for inspection at a specified place in the county. The notice must say that representations about the proposals can be made to the Minister within two months from its publication. Subclause (4) places on the Minister the duty of considering the proposals and representations by local authorities and electors concerned and he may then within his discretion make an order giving effect to the proposals with or without modification. Then follows the important proviso that if an objection is formulated by any of the local authorities or electors concerned the Minister shall not make an order giving effect to the proposal without first holding a local inquiry.

Subclause (6) arms the Minister with powers to effect changes when the county council have failed to make proposals and it appears to him that there is a *prima facie* case for making a change. He must, before making an order effecting changes, publish notices, consider representations and hold a local inquiry on the same lines as detailed above. Clause 30 enables the Minister to direct the holding of a county review by the Commission in the circumstances enunciated in subcl. (1) (*a*) (*b*) (*c*). Under subcl. (2) the Commission must confer with the county council whose rights of representation and objection are fully safeguarded. Clause 31 of the Bill deals with subsequent county reviews. At any time after 10 years the Minister may direct a county council to hold a further review. The 10 year period is construed according to subcl. (2) (*a*) (*b*) (*c*) of cl. 31. The same procedure applies as detailed in cl. 28 (1) and (4) and cl. 29. The clause does not apply to the administrative county of London. Clause 32 endows the Minister with power to dissolve a joint board by order or vary its constitution, functions or area, if following review orders made under cll. 28, 30 or 31 it appears to him expedient so to do.

The rest of part II is taken up by important general provisions. Clause 33 establishes a presumption that a population of 100,000 is sufficient to support the discharge of county

borough functions, and cl. 34 places an embargo on Bills for changing local government areas or status before 15 years from the commencement of the Bill. By subcl. (2) the council of a borough must not promote a Bill to make the borough a county borough unless the population is 100,000 or more. The clause does not apply to the county of London or (if Order in Council so provides) any other part of the Metropolitan area. Clause 35 enables the Minister to make regulations about the manner in which the Commission are to exercise their functions and cl. 36 provides for the disolution of the Commission by Order in Council when it appears that their functions have been fully performed. Clauses 37 and 38 contain consequential and transitional arrangements relating to part II and financial provisions respectively. Under cl. 38 (1) ss. 151 and 152 of the Local Government Act, 1933 (which enable financial adjustments following the alteration of areas or authorities under that Act) shall apply to orders under part II of the Bill.

By cl. 39 of the Bill orders made under part II are subject to either affirmative or negative resolution. Clause 40 enables the Minister to vary or revoke an order made by him on a review under this part of the Bill. Similar provisions to those set out in previous clauses are contained in this clause about public notice of the Minister's intentions, inspection of the notice, and the making of representations. If there are objections to the Minister's draft order then he must hold a local inquiry.

SLAUGHTERHOUSES BILL

This Bill, which was presented to Parliament on November 6 and received its second reading on November 14, seeks in the first place in cls. 1 to 5 to alter the law as to licensing and restricting private slaughter-houses in England and Wales outside London now found in part IV of the Food and Drugs Act, 1955, secondly in cl. 6 to introduce entirely new provisions as to the safety, health and welfare of employees in slaughter-houses and knackers' yards, and thirdly in cl. 7 to amend the Slaughter of Animals Acts, 1933 to 1954, so as to allow new methods of slaughter and to prepare those Acts for consolidation.

In so far as the Bill will alter part IV of the Act of 1955, it will have certain immediate effects and certain postponed effects. Its immediate effects will be as follows.

First, it will repeal s. 64 of the Act of 1955 (cl. 1 (1)). This means that local authorities will be able to license premises which have never before been used as a slaughter-house or entirely new premises, without the consent of the Minister of Agriculture, Fisheries and Food. But, so far as the Minister's consent is concerned, this will be the position for a limited time only.

Secondly, it will create what is in effect a new kind of licence called a "new" slaughter-house licence. This means a licence for premises which have not been licensed during the 12 months prior to the application for the licence (*see* the definition in cl. 11 (1)). Therefore, it is not only new premises which will attract a "new" licence, but also premises previously licensed provided that the previous licence expired a sufficient time before the application.

Thirdly, the Bill envisages that new regulations as to construction, lay-out and equipment, called in the Bill "construction regulations," will be made as soon as, or shortly after, the Bill becomes law, both under s. 2 of the Slaughter of Animals Amendment Act, 1954, under which the Slaughter of Animals (Prevention of Cruelty) (No. 2) Regulations, 1954, are at present in force, and under s. 13 of the Act of 1955, which deals with such matters from the public health aspect. Although there has always been power to make regulations of the kind under s. 13, no such regulations have yet been made.

Three points deserve notice here. First, the Bill provides for the new construction regulations to come into force on different days in respect of different classes of premises and different areas (cl. 7 (3) 8 (2)), and it will be essential for the full operation of the Bill that at first they apply only to premises for which a "new" licence is or has been granted and only later, and after the local authority have recommended a date to the Minister, to all premises (*see* cl. 3 (2), (3)). Secondly, the regulations may enable local authorities to exempt premises from certain of their provisions where compliance cannot reasonably be required (cl. 7 (3) of the Bill and s. 13 (4) of the Act of 1955). Thirdly, the Minister's officers are to have power of entry for the purpose of the regulations made under s. 13 of the Act of 1955 (cl. 8 (3)).

The fourth immediate effect of the Bill will be to reduce the scope of a local authority's discretion under ss. 63 and 65 of the Act of 1955 to grant or renew a licence for premises to which the new construction regulations apply. Thus, by cl. 1 (2), they will have no power to grant or renew a licence for such premises unless satisfied that all construction regulations both under s. 13 and under s. 2 will be or are complied with. On the other hand if they are so satisfied they must in general grant or renew the licence (*see* cl. 1 (2)) unless the applicant delays unreasonably in preparing the premises, in which case, if they refuse, he may appeal to the Minister (*see* cl. 5 (1), (2)). The Bill will not immediately affect the discretion as to licences for premises to which the new regulations do not apply.

Fifth, the Bill affects resolutions under ss. 75 or 76 of the Act of 1955 or similar restrictions under local Acts. Thus, no further resolutions may be passed under s. 76 after the Bill becomes law (cl. 1 (3)). And the Minister may compel a local authority to revoke a resolution of either kind if there is no public slaughter-house available occupied by a local authority and open to all comers (*see* cl. 1 (3)).

In the case of effective resolutions under ss. 75 or 76, or restrictions under local Acts, an application may be made for the grant of a "new" licence although the resolution forbids the local authority to grant it (cl. 2 (1)). The application is either to be refused or referred to the Minister, and the applicant can compel reference to the Minister (cl. 2 (1)). After considering representations (*see* cl. 2 (2), 9 and sch. 1), the Minister must either direct the local authority to refuse the application—but he can only do this if in his opinion the licence is unnecessary for securing adequate slaughter-house facilities—or direct that it is not to be refused unless the local authority are not satisfied that all construction regulations will be complied with (cl. 2 (2)). The local authority may then refuse it if the applicant delays unreasonably to prepare the premises, but he may appeal from the refusal to the Minister (cl. 5 (1), (2)). Once the local authority, in consequence of a direction, have granted a

"new" licence, they are not to refuse any subsequent application in respect of the premises so long as it is made within 12 months of the expiry of the previous licence, unless they are not satisfied that construction regulations are being complied with, or unless the Minister consents (cl. 2 (3)). Before giving his consent he is to consider representations and is not to give it unless the re-licensing of the premises is unnecessary for securing adequate slaughter-house facilities (cl. 2 (5)). Where he does so consent, an entitlement to compensation arises under s. 78 of the Act of 1955 (cl. 2 (4)).

Besides allowing the Minister to authorize licences although the local authority's resolution forbids licensing, the Bill affects the provisions of the Act of 1955 as to exemptions and reservations in resolutions. Thus, after the Bill becomes law, a reserved power to grant a fresh licence in a resolution under ss. 75 or 76 is no longer to be exercisable. But this is not to affect the validity of any licence granted or renewed under the reserved power before the Bill becomes law (cl. 2 (6)). In the case of exempted premises in a resolution under s. 75, being premises to which the new construction regulations do not apply, the local authority are now to refuse a subsequent application for the grant or renewal of the licence where they are not satisfied that the construction provisions of the regulations at present in force under s. 2 of the Act of 1954 are being complied with (cl. 1 (4)). Where the new construction regulations do apply, they are to refuse a subsequent application for grant or renewal where they are not satisfied that all construction regulations are being complied with (cl. 1 (2) (*d*)). Otherwise they must grant or renew the licence (cl. 1 (2) (*d*)). The Minister may still consent to the refusal of a licence for exempted premises. If this course is to be taken, the rules are the same as those already referred to where the Minister consents to the refusal of a licence originally granted contrary to a resolution (cl. 2 (5)).

Where premises are exempted or licensed under a reserved power in a resolution under s. 75 and the applicant allows 12 months or more to pass after the expiry of his last licence before applying for a new licence, the premises cease to be exempted premises, and the application will be for the grant of a "new" licence (cl. 2 (6)).

It should also be noted that the Bill will repeal s. 78 (5) of the Act of 1955 (cl. 10 (2)) so that the Minister can no longer refund part of the compensation paid by local authorities under s. 78.

So much for the immediate effects of the Bill on part IV of the Act of 1955.

Sometime after the Bill becomes law, a local authority, even where no resolution under ss. 75 or 76 is in force, will be unable to grant "new" licences without the application being approved by the Minister (cl. 4). In deciding whether to approve such an application, the Minister is to consider representations, and may not direct a refusal unless the licence would be unnecessary for securing adequate facilities (cl. 4 (2), 9, sch. 1). If he approves it, the local authority may nevertheless in due course refuse it if there has been unreasonable delay in preparing the premises (cl. 5 (1)). But there may be an appeal against such refusal to the Minister (cl. 5 (2)). But local authorities will retain their own discretion or reduced discretion as to other grants or renewals.

This state of affairs will be brought about by stages beginning with the date on which the local authority submit a report, which is to be available to the public and about which representations may be made, to the Minister of the supply of and demand for slaughter-house facilities in their district (*see* cls. 3 and 4 (1)). Thus, after submission of the report, in general, only premises which were being used as a slaughter-house at the date of submission may be granted a "new" licence without the approval of the Minister (cl. 4 (1) (*c*)). And this will be possible only until the date when the construction regulations are made to apply to all slaughter-houses in the district. Thereafter, whether resolutions are in force in the district or not, no "new" licence may be granted without the approval of the Minister (*see* cl. 4 (1)).

The report will in general be submitted within 12 months after a date appointed by the Minister, which will not be earlier than nine months after the new construction regulations begin to apply to premises for which a "new" licence is appropriate (cl. 3 (2)). The local authority will in the report recommend a date when construction regulations are to apply to all premises (cl. 3 (3) (*d*)).

By cl. 5 (3), whenever there is a refusal consequent upon the Minister's direction or consent, or in cases where the applicant could appeal to or compel reference to the Minister, there is to be no appeal to a magistrates' court under s. 66 (3) of the Act of 1955.

Lastly, it should be noted that the Minister may make regulations as to the form of licences and applications, and as to records to be kept by local authorities of licences granted (cl. 1 (5)).

As to the other objects of the Bill, cl. 6, which applies to London as well as to the remainder of England and Wales, deals with the entirely new and separate matter of the safety, health and welfare of employees in slaughter-houses and knackers' yards.

The clause divides slaughter-houses into those which are and those which are not situated with the curtilage of premises used as a retail butcher's shop. In respect of the latter group of slaughter-houses and of knackers' yards, an order may, and it seems must (*see* cl. 3), be made applying the Factories Acts, 1937 and 1948 (cl. 6 (1)). In respect of the former kind of slaughter-house, regulations may, and it seems must (*see* cl. 3), be made for securing the safety, health and welfare of employees employed therein, which it will be the duty of local authorities to enforce (cl. 6 (2) (3)).

Clause 7 (1), (2) amends s. 1 of the Slaughter of Animals Act, 1933, so as to empower the Minister to make regulations permitting methods of slaughter other than those already permitted by the subsection; but this clause is not to come into force until a day appointed by the Minister (cl. 7 (5)).

Clause 7 (4) and sch. II are to effect certain minor amendments to the Slaughter of Animals Acts, 1933 to 1954, with a view to the consolidation of those Acts. But here again the clause is not to come into force until a day appointed by the Minister (cl. 7 (5)).

Finally it should be noted that cl. 12 (3) reinstates so far as it applies to London S.I. (1) and (3) of the Act of 1954, which was repealed by the Act of 1955.

MISCELLANEOUS INFORMATION

WAR DAMAGE COMMISSION AND CENTRAL LAND BOARD

The north-western regional office of the War Damage Commission and Central Land Board, Government Building, Burton Road, West Didsbury, Manchester 20, which covered Cheshire, Lancashire, Westmorland and Cumberland, has been closed.

The war damage work of the office (except that connected with churches) has been transferred to the War Damage Commission, Government Buildings, Bromyard Avenue, Acton, London, W.3. The work related to churches has been transferred to the Commission's office at City Gate House, Finsbury Square, London, E.C.2.

War damage technical centres will, however, be maintained at Manchester, and at Eagle House, 57 Dale Street, Liverpool.

Central Land Board work has been transferred to the Central Land Board, 246 Stockwell Road, Brixton, London, S.W.9.

PRE-PACKED FOODS REGULATIONS

By the Pre-Packed Food (Weights and Measures: Marking) Regulations, 1957 (S.I. 1880), the existing Regulations (S.I. 1950 No. 1125 as amended) are replaced with certain modifications and exemptions. The new Regulations will come into operation on January 1, next.

ROAD TRAFFIC ACT, 1956

By the Road Traffic Act, 1956 (Commencement No. 6) Order, 1957 (S.I. 1840) the following provisions of the Act are brought into force on December 1, 1957: ss. 4 (7) 26 (1) (in part), 33, 34 and 55 (4) paras. 2, 3, 12 (5) and 20 of sch. 8.

NOTTINGHAMSHIRE WEIGHTS AND MEASURES DEPARTMENT

The practice of pre-packing fresh fruit and cleaned vegetables is spreading, and it has its undoubted advantages, but the housewife needs to look after her own interests by ascertaining the weight of the contents. In his annual report, Mr. T. L. E. Gregory, chief inspector for Nottinghamshire, says that this can be guaranteed only if packs are made up in simple well-understood units of weight and the minimum weight in the pack is declared. The majority of batches of packs weighed in the county have been found to be remarkably uniform in weight. In some cases, particularly soft fruits, they have also been uniformly an ounce or so short of the conventional pounds or half-pounds, in which such articles are usually bought.

During the year, there has been an extension of the practice of some packers to depart from the simple well-understood quantities in which goods used to be sold in favour of quantities involving complicated fractions of pound and ounce. One cannot escape the feeling, says Mr. Gregory, that the pack of say 6¼ *ozs.* has replaced the conventional half-pound for little other purpose than to conceal a rise in price. The standardization of pack sizes in simple well-understood units of weight or measure, is, in his opinion, the most urgently required amendment of the law relating to the sale of pre-packed articles.

There being no standard set by law for the meat content in sausages, inspectors are placed in a difficulty. This report says that during the year under review samples examined showed that 35·37 *per cent.* of the higher-priced pork sausages contained less than 65 *per cent.* of meat which was the minimum required under a war-time order. This is the highest proportion of low-quality samples recorded since the revocation of the order, and it is a lamentable fact that the quality of this popular foodstuff continues to deteriorate, says the report.

It appears to be recognized that aeration within certain limits improves the physical properties of ice cream, but Mr. Gregory has found that in some cases this has been carried to excess simply for the purpose of increasing its volume. When this food is sold by volume the reason is obvious.

The record of Nottinghamshire in the sale of solid fuel remains excellent. During the year under review the inspectors checked 13,975 loads, sacks and other quantities of which 39 or 0·28 *per cent.* were deficient in weight. The vigilance of the inspectors has no doubt made the carrying of short-weight sacks and loads a very risky business.

Turning to milk, Mr. Gregory reports that wilful adulteration is now practically non-existent in the county, but the proportion of naturally poor quality milk is still a matter of concern. However, the average levels of fat and non-fatty solids contents of samples taken in the county during the year were appreciably higher than the minimum standards prescribed by the Sale of Milk Regulations.

The need for care in the sale of fireworks was strikingly illustrated by the following incident which resulted in a prosecution. "A fire occurred in a small country shop due to the exposure of fireworks to a prospective purchaser who was smoking a cigarette. The fireworks, which the purchaser was examining, became ignited and one was propelled into an open cupboard at the back of the shop containing about £8 worth of fireworks. The stock was ignited and exploded and scattered in all directions, setting fire to the shop. Fortunately there was no personal injury."

TRAINING SPASTICS FOR INDUSTRY

The Piercy Committee on the rehabilitation, training and resettlement of disabled persons gave careful consideration to the question as to whether the special condition of spastics (as persons suffering from cerebral palsy are commonly called) was sufficiently distinct and different from other forms of handicap to justify the provision of special measures for their resettlement and employment. It was agreed that because the spastic has to learn everything as a handicapped person from the start, he may need longer training at any stage than the person who becomes handicapped later in life. But there was a risk that any special measure for spastics would in the end, tend to insulate them needlessly from their fellows. Clearly the most important consideration is that the spastic, like other disabled persons, should be helped if at all possible to work in open industry. The National Spastic Society has therefore taken special steps to this end, through the establishment of a training centre at Sherrards, Dugswell Hill, Old Welwyn, Hertfordshire, where there is accommodation for 26 young people of both sexes from the age of 16 to 25. It is hoped to extend the premises so that about fifty spastics may be trained. The centre has just made history by sending its first trainee to work in a printing works alongside non-handicapped workers. The centre operates under great difficulties in that most of those who go for training have a very rudimentary general education and some of them can only read, write, or spell with great difficulty. An important feature of the training is that the machines are not adapted to help the disabled person to overcome his disability but the disabled person is trained to use the machines. This scheme certainly seems worth while not only for the opportunity it provides for the spastic to earn his own living but also for the consequential saving in public expense in maintaining those who are unemployed.

ASSOCIATION OF CHILDREN'S OFFICERS

The annual conference of this body was recently held at Buxton, and the report of its proceedings makes interesting reading.

The address given by Mr. Donald Ford, J.P., is particularly arresting. His theme is the development of child care during the nine years which have elapsed since the passing of the Children Act, 1948. Most of us would agree with his belief that the Curtis Report initiated a vital change of attitude towards the whole problem of child care, and that the setting up of children's departments and children committees was the outward sign of this change.

Mr. Ford considers that the very success of the new machinery has presented society with a deeper challenge of which it was scarcely aware before 1948. He says, " the great and over-riding problem in all our minds now must surely be that which arises, not from the provision for children who come into care, but how to prevent the child ever having to come into care at all . . . socially, that is a more positive and worth-while job ; it is also one which is beset with its own . . . difficulties and its own group of delicate issues."

Mr. Ford goes on to analyze the heart of the problem of prevention: in his view, and, again, few would disagree, it is the maintenance of the family unit. This task demands, as Mr. Ford sees it, a more flexible machine than at present exists; one which has greater powers to act before a family begins to break up, one which is more skilled in diagnosis of family problems and more adept at tackling them before they become acute.

Mr. Ford goes on to speak very strongly of some of the rather crude results of the present methods: he says, " today, almost inevitably, the solution of their difficulties is a ruthless one—the children are removed to an institution of one sort or another, and it is conceivable that the parents find their way to another institution if it does not happen that they are already in one. This method of tackling the problem creates the maximum of human misery and personal emotional damage, and, what is equally if not more serious, it is reckless in disregard of both the consequences and the cost, personally to the individuals and to society as a whole." Coming, as they do, from one who is a member of a children's committee and a juvenile court magistrate, these words demand respectful notice.

" Society does not discharge its debt by caring for the children; the debt is greater because it has acted too late ": that is the kernel of the constructive approach which Mr. Ford is seeking. He thinks that too many agencies have a finger in the pie, with the result that they tend to chase each other around the centre of the problem, observing and recording facts, but failing to make a firm initial diagnosis and to act upon it. He considers that the emphasis of child care should shift so as to embrace the family as a unit rather than each child as an individual. " We cannot treat the family problem as a series of different challenges ; for the family, while it has any coherence at all, the various aspects of its situation are part of the one problem, and one must learn to treat them as such."

Dr. D. H. Stott, of the Bristol University Institute of Education, is also concerned with prevention, but from the scientific angle rather than the sociological. His plea is for a unified child care service, putting an end to the overlapping and repetition which are a regrettable feature of the present state of affairs. He has some pertinent points to make about the age of criminal responsibility. He does not favour the raising of the age to 15, advocated by some unrealistic people. He is not afraid of calling a court a court: " The growth of moral understanding is a continuous one, and takes place at different rates in different children. The court exercises a valuable admonitory function akin to that of correction by the parent in a family. If either is neglected, the younger members of our society must lack the experience by which they learn what is socially acceptable behaviour. It is evident that we need some institution with powers of correction—and there seems little point in calling it other than a court, or calling a magistrate by any other name. After all, we must reserve to ourselves the right to take compulsory powers whenever guidance fails. And all those petty infringements of social discipline which by no means betoken social maladjustment—bicycle offences or thoughtless juvenile hooliganism—are surely better dealt with by magistrates than a welfare procedure."

This is valuable counsel—particularly at the present juncture.

A symposium on families in need of help, brings several interesting contributions. But they all have this point in common—the emphasis on the need for cutting down the numbers of those given responsibility for handling the individual problem families. It is agreed by all the contributors that future child welfare work should be conducted by welfare officers enjoying full personal responsibility, aiming at preventing the need to take into care through early diagnosis of problems and swift, concentrated action for their solution.

WAR DAMAGE COMMISSION

The manager's office of the War Damage Commission, Magnet House, Kingsway, Cardiff, has been closed and correspondence should be addressed to the Manager, War Damage Commission, Government Building, Bromyard Avenue, Acton, London, W.3.

War Damage Technical Centres will, however, be maintained at Magnet House, Kingsway, Cardiff, and at 24 Worcester Place, Swansea.

MAGISTERIAL LAW IN PRACTICE

Evening Standard. September 27, 1957.

ANOTHER DIPLOMAT CLAIMS PRIVILEGE

For the second time in a week a case involving a diplomat came before the West London magistrate, Mr. E. R. Guest, today.

When a Danish girl appeared alone in the dock, P-c John Macdonald told the magistrate that the man who had been with her in a car when she was arrested had since claimed diplomatic privilege.

Mr. Guest: " Not really. That is the second time this week this has happened."

Serene Davidsohn, an 18 year old domestic, of Cottesmoore School, Buchan Hill, Crawley, was given an absolute discharge after pleading not guilty to committing an act of indecency at Princes Gardens, South Kensington.

Mr. Guest was told that a report on the man had been sent to the Foreign Office.

Ambassadors and other accredited representatives of foreign countries are considered to be immune from legal proceedings by virtue of the Diplomatic Privileges Act, 1708 (7 Anne *c.* 12). The reasons for the passing of that Act are given in the preamble as follows: " Whereas several turbulent and disorderly persons having in a most outrageous manner insulted the person of his excellency Andrew Artemonowitz Matueof ambassador extraordinary of his Czarish Majesty Emperor of Great Russia her Majesties good friend and ally by arresting him and taking him by violence out of his coach in the publick street and detaining him in custody for several hours in contempt of the protection granted by her Majesty contrary to the law of nations and in prejudice of the rights and privileges which ambassadors and other publick ministers authorized and received as such have at all times been thereby possessed of and to be kept sacred and inviolable . . ."

The immunities of a diplomatic agent are extended to his family living with him, because of their relationship to him ; to secretaries and attachés, whether civil or military, forming part of the mission, but not personally accredited, because of their necessity to him in his official relations ; and to domestics and other persons in his service not possessing a diplomatic character, because of their necessity to his dignity or comfort. The privilege is that of the minister himself and only attaches to them so far as it is necessary for his convenience (*Halsbury* (3rd edn.) vol. 7 para. 577).

The immunity of a member of the ambassador's staff can be waived, even against his will, by the ambassador (*R.* v. *A.B.* [1941] 1 K.B. 454).

Diplomatic immunity has been extended to cover the chief representatives of certain Commonwealth countries, of the Republic of Ireland and of certain international organizations, together with their families and staffs. (Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act, 1952. International Organizations (Immunities and Privileges) Act, 1950).

A statement made to the court by the Secretary of State for Foreign Affairs, or by the Attorney-General on the instructions of the Foreign Office, as to the status of a person claiming diplomatic privilege, whether as an ambassador or as a member of an ambassador's staff, is accepted by the court as being conclusive, and in any case of uncertainty the court will apply to the Foreign Office for information (7 *Halsbury* (3rd edn.) 581).

Further as to diplomatic privilege see 7 *Halsbury* (3rd edn.) 572–592.

PERSONALIA

APPOINTMENTS

Mr. Trevor Scholes, M.C., LL.B., has been appointed town clerk and clerk of the peace of the borough of Maidstone, Kent. He succeeds Mr. Graham Wilson, who retires on March 31, next, after nearly 28 years' service as town clerk and 10 years as clerk of the peace. Mr. Wilson was articled to his father, the late Mr. Stanley Wilson, a former town clerk of Tynemouth, and before going to Maidstone, was assistant solicitor at Warrington and deputy clerk of Kingston-upon-Hull. Mr. Scholes was articled to Mr. P. H. Harrold, O.B.E., the former town clerk of Hampstead, and became deputy town clerk and deputy clerk of the peace of Maidstone on March 14, last, following appointments as assistant solicitor at Hampstead, Acton and Wallasey, and from 1953 to 1957 as deputy town clerk of Chelmsford.

Mr. Sydney Astin, clerk to East Barnet, Herts., urban district council since October, 1954, has been appointed clerk to Merton and Morden, Surrey, urban district council, to succeed Mr. Harry May, who will retire at the end of January, after 50 years' service. Mr. Astin served in the town clerk's office of Burnley county borough council, from 1928 to 1950 (except for war service). He was articled to Mr. Archibald Glen and Mr. C. V. Thornley at Burnley, and was appointed assistant solicitor there in 1949. He was deputy town clerk to Malden and Coombe, Surrey, borough council from 1950 to 1954.

Mr. Philip J. Conrad, F.C.I.S., D.P.A. (Lond.), D.M.A., has been appointed clerk and chief financial officer to Wainford, East Suffolk, rural district council. Mr. Conrad is at present clerk to Woodbridge, East Suffolk, urban district council, a position he has held since July 1, 1954.

Mr. Conrad has had extensive local government experience since 1940. His first two positions were with Beeston and Stapleford, Notts., urban district council and with Barnet, Herts., urban district council. Mr. Conrad became deputy clerk to the Marshland, Norfolk, and Wisbech, Isle of Ely, rural district councils from September 25, 1944, to November 18, 1946. During this time, he was also acting clerk to the council, from September 27 to November 14, 1945. On November 19, 1946, he became assistant clerk to Watford, Herts., rural district council. Mr. Conrad continued in this post until February 9, 1949, when he was appointed deputy clerk to the Isle of Wight rural district council. It was on June 30, 1954, that Mr. Conrad relinquished his position with the Isle of Wight council to take up his present post.

Mr. D. E. Archer has been appointed assistant in the offices of the clerk to the justices for the county borough of Barrow-in-Furness and for the petty sessional division of Lonsdale North in the county of Lancaster, with effect from January 1, 1958. The vacancy was caused when Mr. John H. Dent successfully applied for the post of senior assistant in the office of the clerk to the justices for South Shields. Mr. Archer, who is 27 years of age, is at present employed in the accounts department of the North Western Electricity Board at Kendal.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

The Home Secretary has formally introduced in the Commons the Maintenance Orders Bill "to make provision for the registration in the High Court or a magistrates' court of certain maintenance orders made by the order of those courts or a county court and with respect to the enforcement and variation of registered orders; for the attachment of sums falling to be paid by way of wages, salary or other earnings or by way of pension for the purpose of enforcing certain maintenance orders."

FLICK-KNIVES

In reply to questions in the Commons, the President of the Board of Trade, Sir David Eccles, said that he understood that flick-knives were used by fishermen, seamen, farmers, butchers, cobblers, blacksmiths and electricians. Flick-knives were not separately distinguished in the trade statistics.

Capt. R. A. Pilkington (Poole) asked why ordinary knives could not be used equally effectively in those trades, and did he not agree that on other considerations those knives were very undesirable?

Sir David said that the answer was that some men had to work with one hand, that sometimes their hands were very cold, and that it was of real assistance to them to be able to flick out the blade.

In reply to another question, Sir David said that the knives were imported from Western Germany and Italy.

OFFENCES AGAINST THE PERSON

Mrs. Lena Jeger (Holborn and St. Pancras, S.) asked the Secretary of State for the Home Department how many prisoners, male and female, were serving sentences for offences under ss. 58 and 59 of the Offences Against the Person Act, 1861.

Mr. Butler replied that so far as could be ascertained, 16 males and 21 females were at present serving sentences under s. 58 of the Offences Against the Person Act, 1861. One of the females was also committed under s. 59 of the Act.

EXPERIMENTAL ATTENDANCE CENTRE

Sir K. Joseph (Leeds, N.E.) asked the Secretary of State for the Home Department how far he had accepted the recommendation of the Advisory Council on the Treatment of Offenders in their Report on Alternatives to Short Terms of Imprisonment that an experimental attendance centre for male 17–21 year olds should be set up; and when he hoped to announce a target date for its opening.

Mr. Butler replied that he hoped to open an experimental centre during the financial year 1957–58. He did not know when he would be able to indicate a more precise date, but he would give the project a high priority.

REPORT ON ATTENDANCE CENTRES

Mr. Butler stated in a written answer that he was informed by the Director of the Cambridge Department of Criminal Science that the investigation into the effectiveness of attendance centres was nearly complete and that a report on it should be ready to send to the publishers in three or four months' time.

REPORT ON DETENTION CENTRES

In another written answer, Mr. Butler stated that he understood that there was a good chance of the research on detention centres being completed by the end of this year and that Dr. Grunhut hoped to publish an abridged version of his report next spring.

CORRECTIVE TRAINING

Sir K. Joseph asked the Secretary of State how many men were sentenced to corrective training during 1955 and 1956 although the governor of the local prison concerned had reported them to be unsuitable in his opinion for corrective training.

Mr. Butler replied that in 1955, 18 men reported unsuitable for corrective training received that sentence. In 1956, there were 14 such men.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, November 26

ENTERTAINMENTS DUTY BILL—read 1a.

NATIONAL INSURANCE BILL—read 2a.

Thursday, November 28

PUBLIC RECORDS BILL—read 1a.

HOUSE OF COMMONS

Tuesday, November 26

ROAD TRANSPORT LIGHTING (AMENDMENT) BILL—read 1a.

Thursday, November 28

NEW TOWNS BILL—read 2a.

PUBLIC WORKS LOANS BILL—read 3a.

Friday, November 29

MAINTENANCE ORDERS BILL—read 1a.

REVIEWS

Williams on Title. Second Edition. By W. J. Williams. London: Butterworth & Co. (Publishers) Ltd. Price 95s. net.

The short title of this book, by which it will be known, does it less than justice. The full style given on the title page is *The Law and Practice Relating to the Contract for Sale of Land and the Title to Land*. The learned author is conveyancing editor of the third edition of the *Encyclopaedia of Forms and Precedents*. The work begins with several chapters dealing with the essentials of contract, and the machinery for making and carrying into effect the contract for the sale of land in particular, before it reaches the more technical and specific topics of making and accepting title.

The text itself runs to more than 800 pages, and tells the professional reader all he can wish to know about contracts for the sale of land, including compulsory purchase, although it is not so much concerned with this last topic as with what occurs in the ordinary way, where land passes by agreement. The peculiarities of sale or purchase by companies, and the specific requirements of common law or statute in regard to capacity of parties, are fully explained. Indeed the chapter headed "Capacity of Parties" is the longest in the book including, as it does, sections which are, in effect, separate essays upon the contractual transactions in regard to land of bankrupts, charitable bodies, infants, universities, and every other type one can imagine of vendor or purchaser, apart from the comparatively straightforward case of an individual adult in possession of his faculties.

In the general chapters at the beginning of the book the present position of a memorandum in writing is explained, and also the obligations of the parties in regard to disclosure. The specific chapter on the vendor's title sets out fully the vendor's obligations, and the practice in regard to abstracts and proof of title, and deals in separate sections with wills, deeds, requisitions, searches, and so forth. We mention this as indicating that, whether the work is looked at with the purpose of finding principles of law explained or of discovering what conveyancers do in particular matters, the answer is likely to be found.

Completion of the contract is linked with assurance of the property, and this leads on to considering the position of the parties after completion. When the contract has been duly made, further chapters deal with remedies for failure to complete, such as specific performance or repudiation, and with such matters as execution of the conveyance, acknowledgments for production, rectification and rescission. The peculiarities of making title to enfranchised copyhold are explained, as is the system of registered land and its relation to the general law of sales of land. The work is, in other words, as complete as can be imagined. Its use will be facilitated by the practice of putting into footnotes, page by page, a large number of quotations and cross-references additional to those which are embodied in the text. The work is provided with a table of statutes and table of cases properly referenced in the usual way; it is of interest to notice that the cases, printed rather closely, cover more than 100 pages of the table, whereas the statutes, rather more spaced out in printing, cover only 30 pages. In other words there is an immense amount of case law bearing upon title and contract for the sale of land; the working law as the practitioner has to apply it can best be found with the help of a textbook of this sort, and the readiness of the publishers to face the expense of a really adequate apparatus of reference has enhanced its value for the busy lawyer.

The great experience of the learned author in producing publications on the subject of conveyancing, and the immense care taken with the footnotes and cross-references, afford a guarantee that the lawyer who obtains the book, even though it costs nearly £5, will have spent his money wisely, for he will be on safe ground in handling the practical dealings of his clients with real property.

The Lawyer's Remembrancer and Pocket Book. By J. W. Whitlock assisted by S. H. W. Partridge. London: Butterworth & Co. (Publishers) Ltd. Price 15s. net.

This is a hardy perennial which gives not merely the information on day to day affairs specifically required by the lawyer but also calendars for 1957 and 1959, with tables of weights and measures, and the usual information to be found in almanacks about the phases of the moon, times of sunrise, and other natural phenomena. It gives also the dates of law sittings and university terms and the Inns of Court dining terms. The personnel of the courts and court offices is set out, with clerks of the peace for borough and counties. Lists of regnal years and of the series of law reports will help the student or practitioner to identify the period to which a report relates, where this has not been stated. Among specifically professional information there will be found a digest of the rules about evidence, a digest of company law, tables of costs in many different matters, and a treatise upon order 14. To mention these is merely to point out certain features. It is hard to think of anything which the practitioner requires which will not be found here, from information about affiliation orders to stamp duties; from life assurance to conveyancing costs.

The book is designed to be carried in the pocket if desired—this being understood, it will seem the more remarkable that it contains such a mass of information. If any one group of topics is to be selected for commendation we should say it is the one on practice in the High Court, the magistrates' court, and the county court, which it may often be convenient to have available for instant reference.

Traffic Control and Road Accident Prevention. By Captain Athelstan Popkess, O.B.E. London: Chapman & Hall. Price 15s. net.

This book was first published in 1951 at a price of 37*s*. 6*d*. net. We said in our review of it at 115 J.P.N. 766 that it was not a cheap book and that its price might well prevent a number of people who could benefit by reading it from having access to it except in a library. The "second" edition, or cheaper edition, as it is called, is published at 15*s*., and it includes a short supplement giving briefly the effect of amending legislation passed since the book was first published.

We have nothing to add to our comments at 115 J.P.N. 766 as to the book and its merits. The very considerable reduction in price is all to the good, but we think that the supplement might have been a little fuller in places. We have in mind that the amendment at p. 283 relating to pedestrian crossings might with advantage have been expanded and that, on the same page, the reference to s. 9 of the Road Traffic Act, 1956, might have made it clear that a charge of being in charge of a motor vehicle while under the influence of drink or a drug must now be preferred under that section and not under s. 15 of the Act of 1930. It is quite true, however, that if one refers to the Pedestrian Crossing Regulations, 1954, and to s. 9 of the 1956 Act, the information is there, and this supplement does not pretend to be a complete one making other reference unnecessary. It is to be hoped that the cheaper edition will give this book a wider circulation.

The Human Sum. Edited by C. H. Rolph. London: Heinemann. Price 18s. net.

This book is published in co-operation with the Family Planning Association whose 25th anniversary it commemorates. There are contributions by 11 experts. The editor in referring to the value of the 220 F.P.A. clinics says that more than two-thirds of them are held on local authority premises; and although this represents a spectacular change in the official attitude, sometimes the nature of the premises limits the occasions of their use for this purpose to only once or twice a week. Dr. Julian Huxley, who is perhaps the world's greatest expert on the population problem, points out in an informative chapter that the human race is adding to its present population of some 2·5 billion at the rate of 90,000 people every day; and that the population is also increased by the reduction of death rates in advanced countries from about 40 per thousand to less than 10 per thousand. The average life span has thus been more than doubled in the Western world since the mid-nineteenth century.

In a chapter entitled "The Family as a Legal Notion," the editor describes the position of husband and wife in relation to each other such as under the law of defamation and tort. . . . Before 1935, for example, any wrongful acts done by the wife were the liability of the husband. But the law still regards husband and wife as one person when there is any question of a criminal conspiracy between them. On the question of "keeping the family together" he shows that from eight to 17 years every member of a cohabiting family who "get into trouble" unavoidably involves his family in it. Those concerned with the working of the courts will find much of interest in this chapter, as will

also those concerned with local government. The editor suggests that the zeal and multiplicity of the many people concerned to keep the family together now threaten the fabric of what they seek to strengthen and maintain. He would like to see the law playing a smaller, not a greater, conscious part in the life of the family. Dr. J. M. Mackintosh, until recently professor of public health in the London School of Hygeine and Tropical Medicine, writes on "Changing attitudes within the family." He describes the advances in medical care and the influence of good housing; and suggests that we must avoid trying to fit the family into a preconceived unit of construction but rather build round the family need of today.

This book should be read by all those who are interested, or should be interested in this important subject, and not least by those who can help through a progressive and enlightened health service, both national and international.

DUSTY ANSWER—II

Last week we drew attention to the contrast emphasized, in two articles in the same recent issue of *The Times*, between the orderly and efficient collection of refuse in the German Federal Republic, under municipal auspices, and the "garbage-racket" produced by private monopolistic practices in certain cities of the United States. We in Britain enjoy the benefits of an organized municipal system of refuse-collection, even if (as occurred recently in an area which shall be nameless) the municipal employee may sometimes decline to empty the dustbin unless it is located in a position which is easy of access. The main problem in this country is not so much the removal and destruction of refuse by the appropriate authorities, but its creation by the public.

Everybody has heard of the anti-litter campaign, but it will come as an unpleasant surprise to many people to learn that the nasty habits of a large section of the population have persisted, despite appeals and exhortations, and are now to be checked by legislation. In a two-column article, published on the day following the issue referred to above, *The Times* commented on the decision of the Minister of Housing and Local Government to support a Bill which is likely to be introduced this session. "Many people," remarks our contemporary, "are still apparently indifferent to conditions which give to some of our industrial and seaside towns the appearance of vast urban rubbish-heaps." It is an extraordinary thing that a nation like ours, which over and over again has manifested its free discipline, its willing self-restraint and its supreme fortitude at times of crisis, should still tolerate the scattering of waste-paper, cigarette-cartons, chocolate-wrappers, empty bottles, orange-peel, and *débris* of all kinds in the streets and public places of our towns and (what is worse) over the fields, woods and meadows of England's green and pleasant land. Wherever people congregate, at football-matches and greyhound-tracks, during public processions, and on picnics and rambling parties in the country, they leave behind them trails of dirt and untidiness which are not only difficult and costly to remove, but which are unsightly and offensive to the senses and injurious to public health.

The National Trust, which does such excellent work in preserving places of natural and historic beauty, conducts continuous propaganda against these disgusting habits, but all (apparently) in vain. "The public do not seem easily amenable to education, and little headway has been made" is its comment in a recent report. The Committee on Litter in the Royal Parks observes: "We have only to travel to certain foreign cities to realize that litter is no problem where high standards of living are accompanied by a parallel development of civilized habits, and where public opinion makes an offender realize that to drop litter in public places is a social offence." Anti-litter byelaws, says *The Times*, exist in 59 counties, 58 county boroughs, 223 non-county boroughs and 25 metropolitan boroughs; but "it is difficult to obtain evidence for prosecutions, and some authorities are loth to take action which would antagonize the visitors, who are a major source of wealth."

Some of the figures quoted as the cost of cleansing the streets are simply staggering. In a recent year Birmingham spent £263 for every mile of its 984 miles of roads; Blackpool £180 a mile on its 288 miles; Bournemouth £202 a mile on 236 miles. In London it is far worse. The City, with only 45 miles of streets, spent £2,863 a mile, and Westminster £1,559 a mile on 100 miles of streets. The Ministry of Works spends between £9,000 and £12,000 on clearing the Royal Parks alone. It is a sign of the times that, in Wolverhampton, a full lorry-load of waste-paper has to be removed every morning from the streets—"most of it attributable to fish-and-chips wrappers."

As we write, news comes in from Paris that the dustmen are on strike again, for the fourth or fifth time this year; "in many quarters there is the now familiar sight of brimming dustbins standing on the edge of the pavement." This refuse problem seems to be a *malaise of* international civilization.

The dustman, perhaps because of his unromantic occupation, is not a very familiar figure in literature, but two examples are worthy of mention. Alfred Doolittle, in Bernard Shaw's *Pygmalion*, is one of them—equally remarkable for his Shavian criticisms of "middle-class morality" and for his easy-going standard of virtue that lies behind his proposal to sell his daughter's honour to Professor Higgins for the sum of £5:

> "I ain't pretending to be deserving. I'm undeserving; and I mean to go on being undeserving. I like it, and that's the truth. Will you take advantage of a man's nature to do him out of the price of his own daughter what he's brought up and fed and clothed by the sweat of his brow until she's proved big enough to be interesting to you two gentlemen? Is £5 unreasonable? I put it to you, and I leave it to you."

The other character is Nicodemus (or Noddy) Boffin, the "Golden Dustman" of *Our Mutual Friend*. In this kindly, naive, ignorant, bluff and delightful figure Dickens has shown us a man of lowly origin, unexpectedly the heir to great wealth which, far from spoiling his charming character, inspires him to herculean efforts in the acquirement of knowledge and to the worthy endeavour of remedying his illiteracy. The bequest of his employer, Old Harmon, of a dust-mound, containing all sorts of hidden treasures, shows that there were valuable pickings to be got out of the profession in those days; and few episodes in the works of Charles Dickens are as entertaining, or as pathetic, as Mr. Boffin's pursuit of education in the erudite pages of what he called "The Decline-and-Fall-Off-The-Rooshan-Empire." The melancholy shade of Edward Gibbon, whose monumental work placed on record for all time the daily life of a civilization sterner but scarcely less complex than our own, must sometimes have permitted himself a smile at Mr. Boffin's interest in Pertinax, Commodus and Vitellius, though he has not (so far as we know) dealt in any detail with the problems of refuse-destruction and litter-removal from the highways and byways of Imperial Rome.

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Guardianship of Infants—*Divorced father taking children away—Offences Against the Person Act*, 1861, *s.* 56.

A married woman, who has since obtained a divorce, obtained the custody of her children under the Guardianship of Infants Act. The order provided that the father should only see his children once in six months. He has never paid anything under the order but now interferes with the children by taking them away for periods up to a day without the consent of the mother. His method is to wait outside the house until the children come out to play; he then takes them away to a neighbouring town and the children return to their mother later in the day. This causes the mother considerable distress as she never knows when he is coming or for how long he will keep the children. Do you think, under the circumstances, the police can take proceedings against the father under the Offences Against the Person Act, 1861, s. 56? If this is not possible, can you suggest any remedy to the mother?

UNFOR.

Answer.

Provided the children are under the age of 14, it would seem that all the ingredients necessary for a prosecution under s. 56 of the Act are present. At the same time, we think that the mother could adopt the less drastic course of summoning the father to show cause why he should not be bound over to keep the peace.

2.—Husband and Wife—*Maintenance Orders (Facilities for Enforcement) Act*, 1920—*Provisional order—Husband abroad starts proceedings for divorce in the United Kingdom—Should court proceed to confirm order?*

A wife has obtained a provisional order in the United Kingdom against her husband who resides in a colony to which the Act extends and whereto it has been transmitted for confirmation.

The husband has been granted two adjournments during which he has filed a petition for divorce in the United Kingdom.

At the hearing he produces evidence of the filing of that petition and submits that the court has no jurisdiction to confirm or otherwise deal with the provisional order, in view of the fact that proceedings are pending in a higher court.

The question on which your opinion is desired, is whether, this being a provisional order which has been transmitted for confirmation, the filing of such a petition after the making of the provisional order, will have the effect of ousting the court's jurisdiction in the matter?

FASTOR.

Answer.

We think that the court should not proceed to confirm the order. The order is not complete until it has been confirmed, and, if the parties had both been in England, the court would have had to adjourn the proceedings. We do not think the husband ought to be penalized simply because he happens to be abroad when he would have been entitled to an adjournment if he had been in England.

3.—Licensing—*Occasional licence—"Tie" to brewer.*

A hall in this area is let frequently for dances and other functions and my justices have granted occasional licences on 80 such occasions during 1956.

The owners of the hall have now accepted a tender from a firm of brewers for the exclusive right to supply intoxicants in this hall.

I shall be grateful if you will give me your opinion on the following:

(*a*) Does the grant of the exclusive right to one brewery to supply intoxicants affect the grant of occasional licences? (It can be said there is no longer occasional use by a licensee of these premises—but a regular user as of right by virtue of the grant.)

(*b*) Does the grant of this right to the brewery infringe on the unfettered judgment which the justices should exercise in dealing with applications for occasional licences.

(*c*) Generally on this situation.

Chandler v. *Emerton* (1940) 104 J.P. 342; *R.* v. *Rotherham Licensing Justices, ex parte Chapman* (1939) 103 J.P. 251 noted.

ORDAF.

Answer.

(*a*) The arrangement of a tied tenancy is well known. We see no difference in principle between such an arrangement in relation to licensed premises and premises where intoxicating liquor is sold from time to time by virtue of an occasional licence.

(*b*) The judgment of the justices remains unfettered: this judgment is directed solely to the granting or refusing of an application and presumably there will be no application made to them except by a holder of an on-licence acting on the instructions or with the authority of the firm of brewers.

(*c*) The justices should satisfy themselves that the application is genuinely made by the holder of a justices' on-licence whose interest in the sale of intoxicating liquor by virtue of the occasional licence at least corresponds with the weight of his liabilities under s. 148 (5) of the Licensing Act, 1953, and s. 1 of the Occasional Licences and Young Persons Act, 1956. The justices must also be of opinion that the grant of an occasional licence is expedient for the convenience and accommodation of the public (*see* Licensing Act, 1953, s. 148 (3)). *See* also our answers to similar questions in our vol. 120 at pp. 495, 796.

4.—Magistrates—*Practice and procedure—More than one petty sessional court house in a borough—Provision of new court house.*

A new set of office accommodation is being built in this borough which has its own commission of the peace.

Part of the scheme provides for a court on these premises in order that domestic and juvenile courts can be heard there regularly and not just occasionally.

The ordinary court, which is used at present for all cases, will still be used for the hearing of criminal cases.

I would be grateful for your opinion on the following:

1. Is there any reason why there should not be two petty sessional court houses? Section 13 of the Interpretation Act seems to envisage this possibility.

2. Are there any statutory or other steps to be taken before these premises are used for this purpose.

(It is appreciated that these premises could not be used as an occasional court house as a petty sessional division having its own commission of the peace cannot have one.)

I shall be glad if you will let me have your comments on the enclosed point.

GISTOR.

Answer.

1. There is no reason why there should not be more than one.

2. There are no statutory steps to be taken, but as the public are entitled to be present, it would be proper to give publicity in the local newspapers to the fact that the new premises are to be taken into use and to put up a notice to that effect in the existing court house.

5.—New Streets Acts, 1951 and 1957—*Interest on deposits—Calculation for past years.*

Deposits made by developers, under the New Streets Act, 1951, have carried simple interest at the rate of three *per cent. per annum*, and a reserve account has been created by crediting accrued interest to a depositors' interest account annually.

Section 5 of the amending Act of 1957 alters the rate of interest payable on deposits from three *per cent.* to the "appropriate rate," which rate falls to be determined annually and is equal to the P.W.L.B. rate for 10-year loans prevailing at the commencement of each financial year.

Since the amending Act came into operation on September 6, 1957, it seems natural to assume that existing deposits will carry interest until September 5, 1957, at three *per cent. per annum*, and thereafter at the appropriate rate, thus requiring two separate calculations for the financial year ending March 31, 1958. An examination of the exact wording of s. 5 of the new Act, however, throws doubt on this interpretation. Section 5 (1) says that any sum paid to a local authority shall, in so far as it continues to be held, carry simple interest at the appropriate rate from the date of payment until such time as the sum so held falls to be set off or refunded, and s. 5 (2) requires the interest on any sum held by a local authority to be calculated in respect of each financial year during which it accrues at the appropriate rate.

I should be glad to have your opinion on the following points:

(*a*) Does the inclusion of the words " so far as it continues to be held " mean that interest will be at the appropriate rate only from September 6, 1957, on deposits which continue to be held after that date, when the Act comes into operation ?

(*b*) Does the requirement to pay interest at the appropriate rate " from the date of payment " and " calculated in respect of each financial year during which it accrues " mean that, in relation to existing deposits, an appropriate rate must now be determined for each year since 1951, with a consequent adjustment to the amounts already credited to the depositors' interest account in respect of interest accrued for past years ? PULOW.

Answer.

(*a*) No, in our opinion. Those words refer to deposits which continue to be held in whole or in part. Some part of the deposit may now be refunded under the Act of 1957.

(*b*) Yes, in our opinion.

6.—Probation—*Order—Breach of requirement—Service of order.*

On May 8, 1957, a defendant was found guilty of an offence of neglecting a child of 5½ years in a manner likely to cause the child unnecessary suffering or injury to health, contrary to s. 1 of the Children and Young Persons Act, 1933, and was placed on probation for three years.

Subsequently, the probation officer laid information that the defendant had failed to comply with a requirement of the probation order by failing to inform the probation officer of a change of her residence.

After being arrested, the defendant was bailed to attend court on September 18, but failed to surrender to bail. The probation officer gave evidence, from which it appeared that s. 3 (6) of the Criminal Justice Act, 1948, was not complied with, since the probation officer never succeeded in serving a copy of the probation order upon the defendant, as the latter proved too elusive. In view of this, the court (which was the original court which dealt with the defendant in May last) adjourned the matter *sine die*, so that it could be decided what further action shall be taken.

In view of the failure to observe s. 3 (6), it is considered that the defendant was never placed on probation, in which case she was never sentenced. If this view is correct, can she be brought before the court and sentenced for her original offence ?

VIREN.

Answer.

In our opinion the defendant was placed on probation when the court announced its decision on May 8, 1957, and explained the effect of the order in accordance with s. 3 (5) of the Criminal Justice Act, 1948, and the circumstance that a copy of the order was not given to the defendant will not prevent the court from dealing with a breach of a requirement of the order in accordance with s. 6, *ibid.*

The probationer cannot, however, be dealt with under that section until she has appeared or been brought before the court, *see* s. 6 (3). We are unaware of any power to deal with her in her absence in such a case.

7.—Road Traffic Acts—1. *Certificate that vehicle driven by defendant—Given by a Scottish constable.* 2. *No excise licence—Onus of proof.*

I shall be glad of your opinion on the following problem which has arisen in connexion with proposed prosecutions in the division for which I am clerk to the justices.

A motor car is seen in this division by police constable A, who finds that it is not displaying a current road fund licence, but cannot then trace the driver. Inquiries having been made, it is found that the driver, B, is living in Scotland. It is therefore proposed that the police force for the area where B is living be asked to have him interviewed by a constable with a view to proceedings under s. 15 (1) of the Vehicles (Excise) Act, 1949, and, at the same time, to serve on B a copy of a certificate under s. 41 (2) of the Criminal Justice Act, 1948.

Your opinion is requested on the following points:

1. (*a*) Could a certificate under s. 41 (2) of the Criminal Justice Act, 1948, be given by a Scottish constable, and (*b*) could such a certificate then be admitted as evidence before a magistrates' court in England ?

2. Could the cases referred to on p. 330 of the 1957 edn. of *Stone*, under the heading " Negative Averments," be relied upon in connexion with proceedings under s. 15 (1) of the Vehicles (Excise) Act, 1949 ?

3. If, as I believe, the onus of proof is on the defendant, then the only evidence necessary would seem to be that of the police constable A and the certificate under s. 41 (2) ?

INUTA.

Answer.

1 (*a*) and (*b*). In our view the answer to both questions is " Yes." We know of no authority on the point.

2. Yes.

3. We agree.

8.—Road Traffic Acts—*Sale of vehicle in condition which offends against s.* 8 *of the Act of* 1934, *as amended—One or more offences ?*

Section 7 of the Road Traffic Act, 1956, amended s. 8 of the Road Traffic Act, 1934, and, as a result, it is unlawful to sell a motor vehicle with defective steering, defective brakes or defective tyres.

An offence also occurs when a vehicle is sold in such condition (excluding a defence as set out in s. 7 (2) of the Road Traffic Act, 1956) that lighting equipment, reflectors, or the maintenance thereof is such that it is not capable of being used on a road during the hours of darkness without contravention of the law concerning obligatory lamps or reflectors.

If a vehicle is sold in such condition that steering, brakes and tyres are all defective, does the seller commit three separate offences in respect of the defects or merely one offence embodying the defective parts ? Similarly, if lights and reflectors are not in proper order and a defence under s. 7 (2) cannot be made, is a fourth offence committed by the person selling the vehicle ?

Magistrates' clerks in this district hold contrary opinions on the subject—some state that only one offence of selling a vehicle in a defective condition occurs irrespective of whether one or all the defects mentioned exist, whilst others argue that the existence of each of the defects mentioned in the Act constitutes a separate offence and warrants a separate summons against the seller.

M.H.W.J.

Answer.

The basis of the offence is that there has been a sale or supply, or even an offer to sell or to supply, a defective vehicle. In our view that sale or supply, or offer to sell or to supply, which is one act, constitutes only one offence even though there may be more than one kind of defect making the transaction an unlawful one.